

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MIC GENERAL INSURANCE CORPORATION,

Plaintiff,

-v-

WILFRIDO CABRERA and LUIS CRUZ,

Defendants.

20 Civ. 4855 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On June 24, 2020, plaintiff filed the complaint in this case. Dkt. 1. On June 27, 2020, plaintiff served defendants with process. Dkts. 7–8. Defendants did not answer or otherwise respond to the complaint. On August 5, 2020, the Court ordered plaintiff to show cause as to why the case should not be dismissed for failure to prosecute. Dkt. 9. On August 19, 2020, plaintiff moved for a default judgment. Dkts. 13–16. The Memorandum in support of the motion did not mention any stipulation between plaintiff and either defendant regarding an extension of time to answer or otherwise appear in this action. Dkt. 16.

On August 21, 2020, the Court ordered Cruz to show cause as to why the Court should not grant plaintiff’s motion for default. Dkt. 21. On August 24, Cruz filed an answer. Dkt. 23. On August 25, 2020, the Court ordered Cruz to explain why default was not warranted by September 1, 2020. Dkt. 25. On August 31, 2020, counsel for Cruz filed an affidavit explaining that on July 9, 2020, plaintiff signed a stipulation with Cruz extending his time to answer to otherwise appear to August 24, 2020. Dkt. 26. This stipulation was never filed with the Court.

In light of Cruz’s stipulation with the plaintiff, the Court, in recognition of the preference for resolving lawsuits on the merits, denies the motion for a default judgment against Cruz. The

Court will proceed on the merits against Cruz, and Cruz will attend the initial pretrial conference is presently scheduled for **September 23, 2020 at 2:30 p.m.** All pretrial conferences must be attended by the attorney who will serve as principal trial counsel.

Counsel are, however, admonished to be considerably more attentive in the future to their obligations to the Court.

The Clerk of Court is respectfully directed to terminate the motion pending at docket 13.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: September 2, 2020
New York, New York